LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House
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FISCAL IMPACT STATEMENT

LS 6658 **DATE PREPARED:** Feb 4, 2002
BILL NUMBER: HB 1293 **BILL AMENDED:** Jan 31, 2002

SUBJECT: Prescription Drug Discounts.

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FUNDS AFFECTED: X **GENERAL** **IMPACT:** State
X **DEDICATED**
FEDERAL

Summary of Legislation: (Amended) This bill establishes the Rx program to provide discounted prescription drug prices to uninsured persons, underinsured persons, and Medicare recipients. The bill allows a drug manufacturer or labeler that sells prescription drugs to voluntarily enter into a rebate agreement with the State Department of Health that requires rebate payments to be made to the state for the Rx program. The bill authorizes the State Department to negotiate the amount of the rebate and audit a manufacturer or labeler to assure compliance. It also requires a retail pharmacy to sell the drugs covered by the Rx program to participants in the program at the discounted price. The bill establishes: (1) a formula for the state to use in calculating discount prices for drugs covered by the rebate agreement; (2) a procedure for resolving rebate amount discrepancies; and (3) the Rx dedicated fund, consisting of revenue from manufacturers and labelers who pay rebates and appropriations to the fund.

The bill allows the Office, with the consultation of the Drug Utilization Review Board to develop and implement a preferred drug formulary. It sets out parameters of the preferred drug formulary. The bill also redefines "average wholesale price" to include certain rebates and discounts. It also includes insured or self-funded employee welfare benefit plans that provide prescription drug benefits to residents of Indiana in the list of Indiana residents eligible to participate in the Rx program. The bill specifies considerations when negotiating the amount of a voluntary manufacturer or labeler rebate. It also requires other units of state government to participate in obtaining a rebate amount. The bill further specifies three levels of drug pricing. It adds a policy statement.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) The State Department of Health has estimated that 147 new staff positions would be needed to implement this new program at a cost of $7.3 M the first year and $7 M in the second year. These estimates do not include any new system development costs. In order to operate the Rx Program as described, the Department would need to have the infrastructure of the program

administration in place upon enrollment of the first beneficiaries. (The bill requires retail pharmacies to be reimbursed within two weeks of the claim.) Rebate revenues are required on a quarterly basis. The necessary cash flow for program implementation would most likely need to be funded by the State General Fund.

The Kaiser Family Foundation reported that in 1996, 23% of the non-Medicare population and 31% of Medicare beneficiaries had no prescription drug coverage. Most of the non-elderly Americans without drug coverage were reported to have no health insurance at all. (The data reported is prior to the implementation of the CHIP program in Indiana.) Seniors lack drug coverage because Medicare does not cover outpatient prescription drugs and they do not have a private policy. Applying these percentages of individuals with no prescription drug coverage to Indiana population estimates for 1998, approximately 1.4 million Hoosiers (1,179,738 non-Medicare and 227,792 Medicare beneficiaries) would qualify for the Rx Program as individuals lacking prescription drug insurance. The bill does not define the term underinsured; no information is available to estimate the size of the underinsured population.

The bill also allows the Office of Medicaid Policy and Planning (OMPP) to establish a preferred drug formulary. The Office has estimated the savings associated with the implementation of a preferred drug list to be approximately $30 M annually to the Medicaid program. Additionally the bill requires the Office to apply for a waiver to negotiate supplemental drug rebates with manufacturers and drug labelers. The bill defines a formula and a process for the Office to use in establishing the rebates. These rebates would be in lieu of the existing federal rebates and are required to be more favorable to the state. Medicaid reported total drug rebate payments of $79.3 M for FY 2000. The Office has not estimated the additional staff and costs associated with implementing the formulary or the expanded rebate program, but any associated administrative program costs would be reimbursed by the federal government at 50%.

Explanation of State Revenues: (Revised) In State FY 2000, the Medicaid Program reported 651,924 recipients with paid legend drug claims of $433,362,866. The total average annual drug expenditure was approximately $664.74 for the Medicaid population. For the same fiscal year, Medicaid reported total drug rebate payments of $79,287,685. Rebates were approximately 18.3% of the total outpatient pharmacy claims, or $121.62 per recipient. If it is assumed that Medicaid outpatient pharmacy experience is applicable to the uninsured and under-insured population, the Rx Program rebates might produce annual revenue of $171.2 M. After deducting annual administrative expenses, this would potentially allow $163.9 M, or $117.07 per recipient, to be distributed as drug discounts and dispensing fees. Due to the seriously disabled population covered within Medicaid, this estimate should probably be regarded as the maximum of the range of rebates that could be achieved within the Rx Program. Inclusion of an "underinsured" population may dilute the amount of cash available for discounts to be distributed.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Health; Family and Social Services Administration, Office of Medicaid Policy and Planning.

Local Agencies Affected:

Information Sources: "*Demographic Trend Report, Division of Family and Children Selected Assistance Programs for State Fiscal Year 2000*"; The Henry J. Kaiser Family Foundation "*Prescription Drug Trends*" Fact Sheet #3057 at the Kaiser Foundation web site at www.kff.org; Marilyn Cage, Legislative Liaison for

the State Department of Health, (317) 233-2170; U.S. Census population estimates at www.census.org/statab/USA98/18/000.txt.